



BILLING CODE: 3510-DS-P

**DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
**[A-570-851]**

**Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013**

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** On November 21, 2013, the Department of Commerce (the Department) published in the *Federal Register* the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period February 1, 2012 through January 31, 2013.<sup>1</sup> This review covers the PRC-wide entity, which includes Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field), among other companies. The Department gave interested parties an opportunity to comment on the *Preliminary Results*, but we received no comments. Hence, these final results are unchanged from the *Preliminary Results*. The final dumping margin for this review is listed below in the "Final Results of Review" section of this notice.

**DATES:** *Effective* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Deborah Scott or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

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<sup>1</sup> See *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results and Rescission In Part of Antidumping Duty Administrative Review; 2012-2013*, 78 FR 69817 (November 21, 2013) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

telephone: (202) 482-2657 or (202) 482-0649, respectively.

## **SUPPLEMENTARY INFORMATION:**

### Background

On November 21, 2013, the Department published the *Preliminary Results* of the instant review.<sup>2</sup> By virtue of its failure to respond to the Department's questionnaire, Blue Field failed to establish that it was separate from the PRC-wide entity.<sup>3</sup> Consequently, the Department examined the PRC-wide entity, which included Blue Field, among other companies, for the *Preliminary Results* and assigned the entity a preliminary dumping margin of 308.33 percent.<sup>4</sup> The dumping margin applied to the PRC-wide entity was based on adverse facts available because the Department determined that an element of the entity, Blue Field, failed to act to the best of its ability in complying with the Department's request for information in this review and, consequently, significantly impeded the proceeding.<sup>5</sup> We invited interested parties to comment on the *Preliminary Results*.<sup>6</sup> We received no comments from interested parties.

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

### Scope of the Order

The products covered by this antidumping order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Certain Preserved Mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in

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<sup>2</sup> *Id.*

<sup>3</sup> See Preliminary Decision Memorandum at 8-12.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See *Preliminary Results*, 78 FR at 69819.

containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) All fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms;” (3) Dried mushrooms; (4) Frozen mushrooms; and (5) “Marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.<sup>7</sup>

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

#### Final Determination As To The PRC-Wide Entity

As explained above, in the *Preliminary Results*, the Department found that the use of adverse facts available is warranted with respect to the PRC-wide entity.<sup>8</sup>

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<sup>7</sup> On June 19, 2000, the Department affirmed that “marinated,” “acidified,” or “pickled” mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See “Recommendation Memorandum-Final Ruling of Request by Tak Fat, *et al.* for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China,” dated June 19, 2000. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. See *Tak Fat v. United States*, 396 F.3d 1378 (Fed. Cir. 2005).

<sup>8</sup> See Preliminary Decision Memorandum at 8-12.

Also in the *Preliminary Results*, consistent with its practice,<sup>9</sup> the Department stated its intent not to rescind the review for the following exporters that remain a part of the PRC-wide entity: (1) Ayecue (Liaocheng) Foodstuff Co., Ltd.; (2) China National Cereals, Oils & Foodstuffs Import & Export Corp.; (3) China Processed Food Import & Export Co.; (4) Dujiangyan Xingda Foodstuff Co., Ltd.; (5) Fujian Pinghe Baofeng Canned Foods; (6) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd.; (7) Fujian Zishan Group Co., Ltd.; (8) Guangxi Eastwing Trading Co., Ltd.; (9) Inter-Foods (Dongshan) Co., Ltd.; (10) Longhai Guangfa Food Co., Ltd.; (11) Primera Harvest (Xiangfan) Co., Ltd.; (12) Shandong Fengyu Edible Fungus Corporation Ltd.; (13) Shandong Jiufa Edible Fungus Corporation, Ltd.; (14) Shandong Yinfeng Rare Fungus Corporation, Ltd.; (15) Sun Wave Trading Co., Ltd.; (16) Xiamen Greenland Import & Export Co., Ltd.; (17) Xiamen Gulong Import & Export Co., Ltd.; (18) Xiamen Jiahua Import & Export Trading Co., Ltd.; (19) Xiamen Longhuai Import & Export Co., Ltd.; (20) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd. (Zhangzhou Golden Banyan);<sup>10</sup> (21) Zhangzhou Long Mountain Foods Co., Ltd.; (22) Zhejiang Iceman Food Co., Ltd.;<sup>11</sup> and (23) Zhejiang Iceman Group Co., Ltd. We explained that, although the requests for

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<sup>9</sup> See, e.g., *Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 2011-2012, 78 FR 55680, 55681 (September 11, 2013).

<sup>10</sup> The Department considers Zhangzhou Golden Banyan to be distinct from another company with a similar name for which a review was originally requested, Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. (Golden Banyan). In the administrative review covering the period February 1, 2010 through January 31, 2011, the Department considered Zhangzhou Golden Banyan to remain a part of the PRC-wide entity, while it calculated a separate rate for Golden Banyan. See *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012). The record of this review does not contain any evidence that suggests these two companies should be considered a single entity. In the *Preliminary Results*, we rescinded this administrative review with respect to Golden Banyan because it has a separate rate and all review requests had been withdrawn for Golden Banyan. See *Preliminary Results*, 78 FR at 69818.

<sup>11</sup> The Department found that Zhejiang Iceman Food Co., Ltd. should be equated with Zhejiang Iceman Group Co., Ltd. See *Certain Preserved Mushrooms From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 76 FR 70112 (November 10, 2011). The Court of International Trade upheld that finding. See *Xiamen Int'l Trade & Indus. Co., Ltd. v. United States*, No. 11-00411, 2013 WL 6728248, at \*14-15 (Ct. Int'l Trade Dec. 20, 2013). The record of this review does not contain any evidence that contradicts this finding.

review of these exporters were timely withdrawn, we would not rescind the review with respect to these exporters because the PRC-wide entity remains under review.<sup>12</sup>

After issuing the *Preliminary Results*, the Department received no comments from interested parties, nor has it received any information that would cause it to revisit its preliminary determinations as to the PRC-wide entity. Therefore, for these final results, the Department continues to find that Blue Field and the other 23 exporters named in this section are part of the PRC-wide entity and that the use of adverse facts available is warranted with respect to the PRC-wide entity.

#### Final Determination of No Shipments

In the *Preliminary Results*, we determined that Xiamen International Trade & Industrial Co., Ltd. (XITIC) and Zhangzhou Hongda Import & Export Trading Co., Ltd. (Zhangzhou Hongda) did not have any reviewable transactions during the period of review (POR) because (1) XITIC and Zhangzhou Hongda submitted timely certifications of no shipments, entries, or sales of subject merchandise during the POR and (2) We did not receive any information from U.S. Customs and Border Protection (CBP) indicating that there were reviewable transactions for XITIC or Zhangzhou Hongda during the POR.<sup>13</sup> Consistent with the Department's assessment practice in non-market economy cases,<sup>14</sup> we stated in the *Preliminary Results* that the Department would not rescind the review in these circumstances, but rather would complete the review with respect to XITIC and Zhangzhou Hongda and issue appropriate instructions to CBP based on the final results of the review.<sup>15</sup>

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<sup>12</sup> See *Preliminary Results*, 78 FR at 69818-19.

<sup>13</sup> *Id.*, 78 FR at 69819.

<sup>14</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) (*Assessment Practice Refinement*).

<sup>15</sup> See *Preliminary Results*, 78 FR at 69819.

As stated above, we did not receive any comments on our *Preliminary Results*, nor have we received any information that would cause us to revisit our preliminary determinations as to no shipments. Accordingly, in these final results, we continue to determine that XITIC and Zhangzhou Hongda had no reviewable transactions of subject merchandise during the POR.

#### Final Results of Review

The Department determined that the following dumping margin exists for the period February 1, 2012 through January 31, 2013:

Exporter	Dumping Margin (Percent)
PRC-wide entity <sup>16</sup>	308.33

#### Assessment Rates

The Department determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.<sup>17</sup> The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For the PRC-wide entity, the Department will instruct CBP to assess antidumping duties on entries of subject merchandise at the PRC-wide rate of 308.33 percent.

Additionally, consistent with the Department's refinement to its assessment practice in NME cases, because the Department determined that XITIC and Zhangzhou Hongda had no reviewable transactions of subject merchandise during the POR, any suspended entries that

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<sup>16</sup> The PRC-wide entity includes, among other exporters, Blue Field.

<sup>17</sup> See 19 CFR 351.212(b).

entered under XITIC's or Zhangzhou Hongda's antidumping duty case numbers (*i.e.*, at those exporters' rates) will be liquidated at the PRC-wide rate.<sup>18</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For XITIC and Zhangzhou Hongda, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to each exporter in the most recently-completed review of each exporter; (2) For any previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recently-completed period; (3) For all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, including Blue Field, the cash deposit rate will be that for the PRC-wide entity (*i.e.*, 308.33 percent); and (4) For all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement

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<sup>18</sup> See *Assessment Practice Refinement*, 76 FR 65694.

could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

Dated: February 25, 2014.

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